



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edward K. Shikada

SUBJECT: SALES TAX BALLOT MEASURE

DATE: July 22, 2010

Approved

Date

7/22/10

RECOMMENDATION

- a) Council discussion and consideration of a one-quarter percent Retail Transactions and Use Tax measure for the November 2, 2010 Election; and,
- b) If the Council wishes to proceed, adoption of a resolution of the City Council calling and giving notice, on its own motion, a Special Municipal Election to be held on November 2, 2010, to submit to the electors of the City of San José the following measure:

MEASURE

Measure to enact a one-quarter percent tax on retail transactions in San José

In order to provide funding for essential City services such as police, fire, emergency response, street maintenance, pothole repair, parks, libraries, and youth and senior programs, shall an ordinance be adopted to enact a one-quarter percent tax on retail transactions in San José, subject to existing independent financial audits, with all revenue controlled by the City.	YES	
	NO	

- c) Council discussion and consideration of adopting of provisions to permit rebuttal arguments in the November 2010 Voter's Sample Ballot, pursuant to Elections Code Section 9285.

OUTCOME

Adoption of a resolution calling a Special Municipal Election would result in voter consideration of the above ballot measure at the November 2, 2010 General Election.

If the ballot measure is approved by voters, the City would be authorized to impose a tax on retail transactions in the amount of one-quarter percent, effective April 1, 2011. Based on current projections, this new tax could potentially result in additional annual revenues of up to \$31 million.

BACKGROUND

On December 17, 2009, a Mayor's Budget Message Workshop was conducted to solicit input from community members and neighborhood leaders on potential revenue sources that require voter approval. In January 2010, a community survey asked residents their preferred options to balance the budget. Although the majority of the community members preferred to balance the budget by reducing employee compensation, when asked about specific revenue strategies, 53 percent of likely voters stated that they would likely support a one-quarter cent Sales Tax increase.

The Mayor's 2010 June Budget Message, adopted by the Council on June 22, 2010, directed the City Manager to move forward with polling to evaluate support for a quarter-cent Sales Tax measure on the November ballot. The direction specified to only proceed with this effort if the City was able to achieve a 10% reduction in total compensation for those bargaining groups with whom the City had open contracts that were not subject to arbitration. Since the Fiscal Year 2010-2011 Budget, adopted by the Council on June 29, was able to factor in a 10% reduction in total compensation for the bargaining groups mentioned above, staff contracted with the polling firm of Fairbanks, Maslin, Maullin, Metz & Associates (FM3) to assess the level of support from likely voters for the potential quarter percent Sales Tax measure.

The City Attorney's Office has prepared the resolution necessary to call for an election on a sales tax measure on November 2, 2010.

ANALYSIS

Per State law, the City can impose a Transactions and Use Tax of up to 1 percent, in increments of a one-quarter percent on retail transactions. The Transactions and Use tax incorporates provisions of the State sales tax law and is administered and collected by the State Board of Equalization in a similar manner as the State sales tax. To the retail consumer, it appears to be an increased sales tax and is commonly referred to as an increased sales tax.

The Transactions and Use Tax may be adopted as either a general tax or a special tax. A general tax requires a simple majority (50% + 1) approval and a special purpose tax requires a two thirds majority (66 2/3%) approval. Based on current and projected Sales Tax revenues in San José, a one-quarter percent tax is anticipated to generate \$31 million in annual revenue for general City services.

Ballot Measure Schedule: As noted in the Manager's Budget Addendum (MBA) #30, the City would need to submit final ballot measure language to the Santa Clara County Registrar of Voters by August 6, 2010 to be considered by the voters on November 2, 2010. Arguments for and against the measure, as well as the City Attorney's Impartial Analysis, would be due to the City Clerk by August 9, 2010, and rebuttal arguments (if authorized by City Council resolution) would be due to the City Clerk by August 16, 2010.

Ballot Measure Polling: In order to evaluate the level of public support for a one-quarter percent transactions tax, 8 survey questions specific to this issue were developed to understand how likely voters may respond to a sales tax measure. FM3 conducted a 25 minute telephone polling

survey on the City's behalf to a sample size population of 800 from July 6 through July 12. The concept questions, which were developed by staff and FM3, were crafted to best understand the feasibility of a sales tax ballot measure and to assess the most favorable provisions that could be applied. Survey results show voters divided on the sales tax measure, with support for the measure ranging from 46% to 52%. A separate memo on the August 3, 2010 City Council agenda provides further details on the questions as well as the polling results of likely voters.

Regional Context

The State Sales Tax rate is currently at 8.25%. Listed below are the combined Sales Tax and Transaction Tax rates (together, "Sales Tax") for large California cities as well as other cities in Santa Clara County. San José's current Sales Tax rate at 9.25% is lower than Oakland (9.75%) and San Francisco (9.5%), and with the proposed one-quarter percent tax increase would be equal to San Francisco and remain below Oakland. All other cities in Santa Clara County, except for the City of Campbell, currently have a Sales Tax rate of 9.25%. The City of Campbell established an additional one-quarter percent City sales tax in April 2009, totaling a 9.50% Sales Tax rate.

	Large California Cities	Sales Tax Rate
1.	Los Angeles	9.75%
2.	Long Beach	9.75%
3.	Oakland	9.75%
4.	San Francisco	9.50%
5.	San José	9.25%
6.	Sacramento	8.75%
7.	San Diego	8.75%

	Santa Clara County Cities	Sales Tax Rate
1.	City of Campbell	9.50%
2.	San José	9.25%
3.	All other cities	9.25%

If a new Transactions Tax is approved by the voters, San José would have a higher Sales Tax rate than most Santa Clara County cities. This presents the potential for sales to relocate from San José to adjacent cities; however, the magnitude of this impact has not been estimated.

EVALUATION AND FOLLOW UP

If Council adopts a resolution to submit this measure to the voters on the November 2010 ballot, arguments for and against the measure, as well as the City Attorney's impartial analysis, would be due to the City Clerk by August 9, 2010, and rebuttal arguments (if authorized by City Council) are due to the City Clerk on August 16, 2010.

POLICY ALTERNATIVES

Not applicable

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

As noted in MBA #30 and in an Information Memorandum to Council on July 9, staff informed several business, community and labor groups of polling efforts for two potential November 2010 ballot measures: the one-quarter percent sales tax measure and a marijuana business tax measure, and key milestone dates.

It should be emphasized that the role of City staff, with respect to any ballot measures, is to provide information to the public. As it relates to campaign activities, City is prohibited from using City resources for any ballot measure. The role of the City Attorney's Office is to develop the ballot question that will be considered by the City Council. The City Attorney's Office is also responsible for developing an impartial analysis of the ballot measure to provide factual information that is printed in the sample ballot along with arguments for and against the measure as well as rebuttals to the arguments for and against the measure, if submitted.

COORDINATION

This memorandum has been coordinated with the Finance Department and the offices of the City Attorney and City Clerk.

FISCAL/POLICY ALIGNMENT

The proposed one-quarter percent Transactions Tax is in alignment with the revenue strategies included in the General Fund Structural Deficit Elimination Plan. Since 2007, the elimination of the structural deficit has been identified by the City Council as one of the City's top priorities.

COST SUMMARY/IMPLICATIONS

Based on the most recent estimates provided by the Santa Clara County Registrar of Voters, submitting a city-wide ballot measure to the voters on November 2, 2010 will cost the City of San José approximately \$758,000 for the first measure and \$366,000 for each subsequent measure. These costs would be paid from the General Fund. The above estimates include the incremental cost of rebuttal arguments, if authorized by the City Council, estimated at approximately \$39,000 per measure. If the Council were to decide not to allow rebuttal

arguments, as it did in adopting Resolution 75304 on March 9, 2010 for Measure K (re: Card Rooms), the cost for each ballot measure would be reduced accordingly.

The 2010-2011 General Fund Non-Personal/Equipment budget for the City Clerk's Office includes \$2.8 million for election costs, of which \$1.4 million was rebudgeted from 2009-2010 to pay for June 2010 election expenses. However, since the actual cost of the June election was only \$902,755, there is a total of \$1,897,245 available (originally budgeted \$1.4 million plus \$497,245) to address election costs in 2010-2011. Of this amount, \$91,000 is needed to provide funding for run-off elections in Districts 5, 7 and 9. The remaining \$1.8 million, based on the estimated costs above, will be adequate to fund three ballot measures.

BUDGET REFERENCE

The table below identifies the fund and appropriation that would be used to cover the potential election costs.

Fund #	Appn #	Appn. Name	Total Appn	2010-2011 Proposed Budget	Last Budget Action (Date, Ord. No.)
001	0452	City Clerk Non-Personal/ Equipment	\$2,985,930	VIII-30	06/29/10* Ord. 28765

* The Adopted Budget includes the rebudget of \$1.4 million from 2009-2010 to cover estimated June 2010 election costs and the addition of \$280,000 for potential fall ballot measures that were approved as part of the Mayor's June Budget Message.

CEQA

Not A Project under CEQA, per Section 15378(b)(4) of the CEQA Guidelines.



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For questions please contact Ashwini Kantak, Assistant to the City Manager, at (408) 535-8147.